STATE PROCUREMENT MANUAL

Number PRO-C-9

Effective 5-1-97

DOA-3449 N(R06/94) Formerly AD-P-12

THE PROCUREMENT PROCESS

Agencies Affected ALL

Replaces 4-1-87

Title WAIVER OF BIDDING PROCESS

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AUTHORIZED:  

Director State Bureau of Procurement

AUTHORITY:  

Wis. Stats. 16.72(4)(a)  
16.75(1)(a)(c)  
16.75(6)(a)(b)(c)(d)(f)  
16.75(7)  
Wis. Adm. Code Chapter Adm 8.05

SCOPE:  

- to define authority for waiving the bidding process and for developing waiver policy  
- to define circumstances where a waiver of bidding may be requested  
- to establish the procedure for obtaining approval for waivers of bidding

CONTENT:

I. The State Bureau of Procurement may provide for a waiver of bidding when certain circumstances exist which preclude bidding.

II. One or more of the following circumstances, with adequate justification, may serve as basis for requesting a waiver of the bidding process:

A. Uniqueness: When a product or service can be established as one-of-a-kind, not available from more than one supplier. The purchase of used equipment which offers a significant discount.

B. Patent or Proprietary: The patented or proprietary features of a product or service gives the state a superior and necessary utility that cannot be obtained from others. The features are available from only one source and not merchandised through competitive outlets.

C. Intrinsic Value: When a product procurement is determined by its historic, artistic, or educational value. When viable specifications or standards cannot be determined in the procurement of a professional or technical service.

D. Emergency: When the risk of human suffering or substantial damage to state real or personal property exists that requires immediate action.

E. Bidding is Not Possible: When award cannot be made strictly on specifications or price.
F. **Substantial Time Pressure:** When substantial time pressure exists beyond the agency’s control. (This does not include administrative delays or confusions in processing the necessary paperwork for purchasing approval.)

III. For a procurement in excess of its delegated authority, the agency requests a waiver of the bidding process from the State Bureau of Procurement by using form DOA-3046, Request for Purchasing Approval/Authority (RPA), and attaching an explanation why competitive bidding cannot be used and the proposed alternative procedure.

Agencies requesting waiver of bidding bear responsibility for providing justification for the waiver request. Agency purchasing agents or program managers involved in developing the documentation for this justification should remember that approvals will be based on facts submitted. Justifications should be written in clear, nontechnical language that can be understood by persons who may not be directly involved in, or familiar with, the specific program. A waiver will be obtained prior to entering into competitive negotiation (RFP) or noncompetitive (sole source) negotiation.

IV. When an agency’s request for waiver is approved by the State Bureau of Procurement, the Bureau issues a procurement bulletin to the agency. The bulletin provides the agency with authorization to proceed with the procurement.

V. When the cost of purchase is expected to be **over $25,000**, the agency places a legal notice in the legal notices column of the official state newspaper once each week for a minimum of two weeks. See PRO-C-6, Legal Notice.

VI. The State Bureau of Procurement may issue a general waiver for a period not to exceed one year, imposing any conditions deemed appropriate. General waivers may be issued to purchase similar materials or services on a recurring basis. See PRO-C-11, General Waiver.

VII. Bidding policies and procedures may not be waived for procurements of printing and stationery.
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VIII. Each individual or general waiver will be entered by the agency in a register which is open to public inspection.

IX. See PRO-C-32, Grants and Other Nonprocurement Transactions.